IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 358 of 2007 (M/B)

Sh. Vikrant Chauhan S/o Sultan Singh Chauhan,
R/o Haripura Selaqui,
Chakrota Road, Dehradun. …… Petitioner

Versus

1. State of Uttaranchal,
   through Secretary Home,
   Govt. of Uttaranchal, Dehradun.
2. S.H.O. Vikas Nagar,
   Dehradun.
3. Sri Matloob Ahmed S/o Mohd. Yaqoob,
   Survey Naib Tehsildar,
   Selaqui, Dehradun.
4. Sh. Ashok Mehta,
   Supply Inspector,
   Selaqui, Dehradun. ……. Respondents

Mr. Ashok Agarwal, Advocate for the petitioner.
Mr. G.S. Sandhu, Government Advocate for respondents Nos. 1 & 2.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S.Rawat, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Ashok Agarwal, Advocate for the petitioner.

Mr. G.S. Sandhu, Government Advocate for respondents Nos. 1 & 2.

They are heard on admission.

2. Petitioner Vikrant Chauhan has filed this writ petition for the following reliefs:

> "a) Issue a writ or order or direction by issuing a writ of certiorari by quashing the FIR dated 16.3.2007, which is annexed as Annexure No. 1.
>
> b) Issue a writ or order or direction by issuing a writ of Mandamus directing to the Respondent No. 2 not to arrest or to take coercive steps against the petitioner.
>
> c) Any other relief which Hon'ble may deem fit or proper at the time of deciding the present writ petition.

d) Cost of writ petition."

3. The petitioner is seeking quashing of the First Information Report dated 16.03.2007 leading to the registration of a case against the petitioner at Crime No. 10 of 2007 at Police Station Sahaspur, District Dehradun for the alleged commission of the offence punishable under Section 3/7 of the Essential Commodities Act.

4. Petitioner Vikrant Chauhan runs a restaurant at Selaqui in the name and style of New Baloon Restaurant. On 16.03.2007, the raiding party raided the petitioner's Restaurant and four empty LPG Cylinders, meant for domestic use only, were found from the petitioner's Restaurant. Though the petitioner has a commercial gas connection for the Restaurant, during the course of Investigation, it transpired that for the entire month of February, 2007, no commercial gas cylinder was supplied to the petitioner's Restaurant. In the month of March, 2007 also, prior to the date of inspection i.e. 16.03.2007, only one commercial gas cylinder was supplied to the petitioner's Restaurant on 09.03.2007.

5. Thus, an inference can safely be drawn that the four empty LPG Cylinders, meant only for domestic use and found in the Restaurant of the petitioner, were used by the petitioner in his Restaurant for commercial purposes.

6. On due consideration of the submissions of the learned counsel for the parties; the contents of the First Information Report; and the material collected during the course of investigation, we are of the opinion that no case warranting quashing of the First Information Report and the case registered against the petitioner, in view of the dictum of the Apex Court in the case of **T. Vengama Naidu Vs. T. Dora Swamy Naidu & others** reported in **JT 2007(4) SC 240,** is made out.

7. We are refraining from commencing on the merits of the case lest it may adversely affect the petitioner's case at the trial, which the petitioner is yet to face.

8. The writ petition, therefore, is liable to be dismissed and is hereby dismissed summarily.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C.J.)**
03.05.2007 03.05.2007

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